

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Stephen Poellot	Team: Team # 8	CCRB Case #: 200605789	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 05/01/2006 7:30 AM	Location of Incident: § 87(2)(b)	Precinct: 09	18 Mo. SOL 11/1/2007	EO SOL 11/1/2007	
Date/Time CV Reported Fri, 05/05/2006 9:30 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 05/05/2006 9:30 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Josh Lewis	23260	932876	009 PCT
2. POM William Glynn	31526	932718	009 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM William Glynn	Discourtesy: PO William Glynn spoke obscenely and/or rudely to § 87(2)(b)	§ 87(2)(b)
B.POM William Glynn	Abuse: PO William Glynn arrested § 87(2)(b)	§ 87(2)(b)
C.POM William Glynn	Force: PO William Glynn used physical force against § 87(2)(b)	§ 87(2)(b)
D.POM Josh Lewis	Force: PO Josh Lewis used physical force against § 87(2)(b)	§ 87(2)(b)
E.POM Josh Lewis	Abuse: PO Josh Lewis refused to provide his/her name and/or shield number to § 87(2)(b)	§ 87(2)(b)
F.POM William Glynn	Abuse: PO William Glynn strip-searched § 87(2)(b)	§ 87(2)(b)
G.POM Josh Lewis	Abuse: PO Josh Lewis strip-searched § 87(2)(b)	§ 87(2)(b)

Synopsis

On 5/1/06 at approximately 7:30 a.m., § 87(2)(b) was walking outside of her building with her son, § 87(2)(b). § 87(2)(b) noticed that there was a parking summons on her husband's car and sent § 87(2)(b) to pick it up. § 87(2)(b) picked up the summons and could not read the writing on it. He saw a marked patrol car driving by and whistled at the officers to stop the vehicle. The officers kept driving and § 87(2)(b) remarked to § 87(2)(b) "These eggplants—when you need them they never want to help you." The patrol car turned the corner and came to a stop. An officer, identified as PO William Glynn of the 9th Precinct, approached them yelling, "What the fuck? You called us fucking pricks?" (allegation A). § 87(2)(b) denied calling them pricks and PO Glynn grabbed him and pushed him against the wall of a nearby building (allegations B, C). § 87(2)(b) attempted to "get in the way" and stop PO Glynn. Another officer, identified as PO Josh Lewis of the 9th Precinct, pushed § 87(2)(b) out of the way (allegation D). Once § 87(2)(b) was frisked and handcuffed, he was put in the back of the patrol car. § 87(2)(b) wrote down PO Glynn's badge number and approached PO Lewis to write him down. As she went to PO Lewis and tried to write down his shield number, he grabbed her by her right arm, threw her against a fence, and handcuffed her (allegation E). While at the 9th Precinct, § 87(2)(b) was put in a holding cell next to § 87(2)(b). She could hear the officers tell him to take off his sweatshirt, shirt, shoes, socks, and pants and she heard him do so (allegations F, G). § 87(2)(b) was charged § 87(2)(a) 160.50 and § 87(2)(b) was charged § 87(2)(b). § 87(2)(b), § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Summary of Complaint

§ 87(2)(b) a § 87(2)(b) Hispanic female § 87(2)(b) at the § 87(2)(b), called the CCRB on 5/5/06 to complain about an incident that took place on 5/1/06 (encl. 7a-c). § 87(2)(g)

§ 87(2)(b) stands 5'4" tall and weighs 184 pounds.

At 7:30 a.m. on 5/1/06, § 87(2)(b) came downstairs from her apartment at § 87(2)(b), and asked her son, § 87(2)(b) to see if the piece of paper on her car was a parking ticket. As a patrol car drove down the block, § 87(2)(b) tried to stop the patrol car by raising his hand and saying "Officers." The officers later told her that he whistled at them but she did not hear a whistle. However, she did not see the patrol car stop and it kept going. When the officers kept driving, § 87(2)(b) said, "These damn eggplants." § 87(2)(b) was not sure if the officers could have heard them because he was only four or five feet away from them. § 87(2)(b) did not use any profanity or call the officer a "prick." § 87(2)(b) was standing on the northwest corner talking to her friend and neighbor, § 87(2)(b). § 87(2)(b) said that there were other people standing outside but she did not know their names or addresses. She said that there were definitely more than ten people standing outside once the officers apprehended § 87(2)(b). The two officers from the car got out and came towards § 87(2)(b) who had crossed the street and stood with her on the northwest corner of the block. As she talked to § 87(2)(b) heard an officer yelling, "What the fuck? You called us fucking pricks?" § 87(2)(b) said, "I didn't call you a prick, I just wanted to know what this ticket said." One of the officers, identified as PO William Glynn of the 9th Precinct, grabbed § 87(2)(b) and put him against the wall. § 87(2)(b) said, "I got in the way. I was like 'Wait a minute, what's going on?'" When asked whether she had any physical contact with the officers, § 87(2)(b) explained that she "got in the way"

by putting her hands in front of the officer and separating him from her son. The officer ordered § 87(2)(b) to put his face against the wall but she did not see any additional pushing. When asked if § 87(2)(b) was yelling or cursing, she remembered him yelling, "I can't believe just for asking what this damn ticket says I got to go through this." § 87(2)(b) and § 87(2)(b) did not use any profanity towards the officers. The officer told her to get back and she did, although she continued to ask why he was being arrested. The ten or more people were not interfering or yelling at the officers and they were not told to disperse.

An officer identified by name as PO Lewis pushed § 87(2)(b) out of the way and asked who she was. § 87(2)(b) was handcuffed and placed in a patrol car. She wrote down the badge number of PO Glynn. As she went to PO Lewis and tried to write down his shield number, he grabbed her by her right arm, threw her against a fence, and handcuffed her. She did not receive any injuries and was not elbowed. She never tapped him on the shoulder or had physical contact with PO Lewis before being grabbed. PO Lewis threw her checkbook that she was using to write his badge number down on to the ground. § 87(2)(b)'s husband later took the checkbook. At this point, § 87(2)(b) saw what was happening and tried to kick the door to get out of the car. One of the officers said, "Mace him," although no pepper spray was used. Although she was able to get PO Glynn's name, she could not get PO Lewis's badge number. § 87(2)(b) said that she was yelling at the officers as the incident began, but she calmed down by the end of the incident. She was not asked to leave the scene. § 87(2)(b) said that she did not pay attention to the crowd after this, although she said that they yelled at the officers when they tried to arrest her. At least one woman was yelling from her window at the officers. At no point did § 87(2)(b) spit on the cop car. She was put in the same car as § 87(2)(b) taken to the precinct, and was searched by a female officer and fingerprinted. § 87(2)(b) did not remember any argument between him and the officers and § 87(2)(b) did not call the officer a faggot. § 87(2)(b) was not allowed to watch the officer search her bag. The jewelry that was found in her bag was being investigated in connection with a robbery. When § 87(2)(b) was in the cell next to him and could not see § 87(2)(b) being searched but heard the officers tell him to take off his sweatshirt, shirt, shoes, socks, and pants and she heard him complying. She could not see § 87(2)(b) but she saw the officers searching the pants, jacket, and sneakers. She did not notice any additional officers come in the room other than PO Glynn, although PO Lewis was coming in and out of the cell area so he might have been present.

Victim Statement

§ 87(2)(b), a § 87(2)(b) Hispanic male § 87(2)(b), was interviewed at the CCRB offices on 5/9/06 (encl. 10a-d). During the interview, he also provided notes about the incident (encl. 9a-d) that he said he wrote down after being released from the precinct that night. § 87(2)(g) § 87(2)(b) stands 6'1" tall and weighs 189 pounds.

At 7:30 a.m. on 5/1/06, § 87(2)(b)'s mother, § 87(2)(b) told him to check his father's car, to see if it was legally parked or there was a ticket on the car. § 87(2)(b) did so and saw that there was a ticket on the windshield. The writing on the ticket was illegible and § 87(2)(b) noticed that a marked patrol car was driving towards him on § 87(2)(b). § 87(2)(b) whistled as it drove by in order to catch the officers' attention. The patrol car stopped and § 87(2)(b) approached the driver's side window. The driver, identified as PO William Glynn of the 9th Precinct, asked § 87(2)(b) "Was that you who just whistled at us?" § 87(2)(b) explained, "Yeah, but I was just trying to get your attention because..." The driver cut § 87(2)(b) off, said, "Thank you, that's all I needed to hear," and "peeled out," turning onto § 87(2)(b). When asked whether § 87(2)(b) said anything to the officers, he answered, "I might have, but I don't remember. Honestly...Like I said, I might have cursed them out, but if it was a curse, it wasn't going to be no prick. It would have been, 'asshole, you son of a bitch, fucking cops.'" § 87(2)(b) said that he was not sure if he called them "eggplants" as his mother heard. § 87(2)(b) explained, "I was angry when they peeled off. When he disregarded what I said and left like I was nobody. That's when I got angry. I was like, 'Shit damn what the hell? They're supposed to do their duty'...Now that I remember, what I did do, when he peeled off, I kind of waved my middle finger at him. I waved my middle finger at him."

§ 87(2)(b) walked towards his mother, who was standing on the northwest corner of § 87(2)(b) to complain about the officers' behavior. The patrol car turned around on § 87(2)(b) and drove back towards § 87(2)(b). § 87(2)(b) told § 87(2)(b) to turn around and he saw PO

Glynn, who was at this point visibly enraged, coming towards him yelling, “What did you say? What did you say? What did you say?” § 87(2)(b) denied that he said anything and PO Glynn yelled, “Oh, you want to call me a prick while I’m on duty?” He then ordered § 87(2)(b) to get against the wall of the building and § 87(2)(b) asked, “For what?” PO Glynn threw § 87(2)(b) against the wall by grabbing his chest and pushing him against the wall. There were later red marks on his chest from where PO Glynn grabbed him. § 87(2)(b) immediately asked PO Glynn why § 87(2)(b) had to get against the wall. PO Glynn said, “Well, he just finished cursing at an officer, calling him a prick.” § 87(2)(b) explained, “Since I never use that word in my vocabulary. I never call anyone a prick. But now, [since] that day that happened, I started using that word a lot...it’s kind of funny.” PO Glynn asked for his identification and § 87(2)(b) said that he did not have any. Once § 87(2)(b) was up against the wall, PO Lewis arrived and attempted to separate § 87(2)(b) from PO Glynn. At this point, § 87(2)(b) was yelling at the officers. § 87(2)(b) did not have any physical contact with PO Glynn. At about the same time PO Lewis arrived, § 87(2)(b)’s friends—§ 87(2)(b) § 87(2)(b) two neighbors and two old men—arrived.

§ 87(2)(b) said that he told his mother to get the officers’ badge numbers. § 87(2)(b)’s friends and his mother were asking PO Glynn why § 87(2)(b) was being arrested. PO Glynn replied, “Right now he just cursed an officer out, I don’t care if this is your son, step back mam, step back mam.” § 87(2)(b) explained, “He kept repeating it, repeating it and repeating it. He got so fed up with it that he pushed my mom out of the way with his elbow. He shoved her out of the way and I got furious. I [said], “What’s wrong with you, that’s my mother, don’t put your hands on my mother.” PO Glynn said, “Don’t move, don’t move.” § 87(2)(b) said that he was not moving at this point but he continued to tell PO Glynn not to put his hands on his mother. At this point, PO Glynn pushed § 87(2)(b)’s head into the metal storefront gate. Other police cars were arriving at this time. At this point, § 87(2)(b) was handcuffed and taken to a patrol car. Once § 87(2)(b) was in the car, he explained, “I never cursed at them when I was outside, but I cursed at them when I was inside [the patrol car].” § 87(2)(b) kept telling him to calm down and § 87(2)(b) asked her to take down the officers’ badge numbers. § 87(2)(b) approached PO Josh Lewis of the 9th Precinct, who was the passenger in the initial patrol car, and tapped him on the shoulder and asked him for his badge number. PO Lewis turned around and continued talking to another officer and § 87(2)(b) continued to ask him for his badge number. As she continued to insist that he give her his badge number, PO Lewis hit § 87(2)(b) with his elbow, spun her around and handcuffed her. He knocked the paper and pen from § 87(2)(b)’s hands. § 87(2)(b) was angry and began “cursing up a storm.”

Once § 87(2)(b) was inside the precinct, he was taken to the front desk. He explained that once he was in the precinct, “I said a couple words I wasn’t supposed to say. I cursed them out. I called them pigs, this, that and the third.” When PO Glynn started frisking § 87(2)(b) in front of the desk sergeant, he pulled § 87(2)(b)’s testicles through his pants and pulled them towards his backside. § 87(2)(b) immediately yelled at the officer, “Okay you faggot, I see what you like doing. I guess this is what turns you on and stuff, right? So I was like being a prick with him. So then that’s the reason why I think he got that word, that I called him a prick in the car as he was speeding off.” § 87(2)(b)’s mother was standing next to him and he said that she would have slapped him in the face if she was not wearing handcuffs. As § 87(2)(b) was being frisked, PO Glynn pushed his head into the wall of the precinct with his hand. From inside of his cell, § 87(2)(b) could see into the front of the precinct and saw that when § 87(2)(b) asked to be present while her property was searched, PO Lewis yanked her handcuffs up to hurt her.

§ 87(2)(b) was then brought into the cell next to him. An hour later, PO Glynn and PO Lewis took him outside of the cell next to a glass window that looked out into the precinct. They told § 87(2)(b) to take off his clothes. § 87(2)(b) kept asking PO Lewis and PO Glynn to bring the captain in but they denied his request. No prisoners were in the cells other than § 87(2)(b) and § 87(2)(b). § 87(2)(b) said that everyone in the precinct could see him. He was wearing a blue sweatshirt, white tank top, blue jeans, white sneakers, and gray boxers. PO Glynn told him to take off his sneakers. They smacked them together and removed the insole. He took off his sweater and pulled out the string, flipped it inside out, and checked for any holes. As he was about to take his boxers off, an officer in plainclothes opened the door and called PO Glynn to the side and told him that they should finish the search. The officers then handed the clothes back to § 87(2)(b) and he could get dressed.

After the strip-search, § 87(2)(b) asked PO Glynn, “If you was off duty and I was talking to your daughter, and me and your daughter are lovers, and I was able to come up to you and tell you that I

had smoked marijuana with your daughter, or I that had sex with your daughter, how would you take it?' [PO Glynn] looked at me and dropped his book and he was like 'humph' and gave me that look like, 'I would beat you up.'" However, PO Glynn never verbally threatened § 87(2)(b). PO Glynn tried to "keep it professional" and say nothing and his mother kept telling him to shut up. After the incident, § 87(2)(b) did not obtain medical treatment for the red marks on his chest.

Results of Investigation

Witness Statements

§ 87(2)(b), a § 87(2)(b) Hispanic female currently § 87(2)(b) at § 87(2)(b), was interviewed at the CCRB on 6/5/06 (encl. 11a-c). The interview was conducted in Spanish and translated by Inv. Mendez Goetz.

At 7:30 a.m. on 5/1/06, § 87(2)(b) left her apartment to go to work at the same time as her neighbor, § 87(2)(b). They walked to the bodega on the northwest corner of § 87(2)(b). The bodega was closed at this point, although an older Hispanic male with gray hair that works at the bodega, identified by the investigation as § 87(2)(b), was outside at this point. § 87(2)(b) was standing on the corner with § 87(2)(b) behind her when § 87(2)(b)'s son, § 87(2)(b), walked up from § 87(2)(b). § 87(2)(b) told § 87(2)(b) that there was a ticket on the windshield of their car. § 87(2)(b) picked up the ticket and attempted to get the attention of some police officers who were driving by. The officers ignored him and § 87(2)(b) kept asking about the ticket. § 87(2)(b) could not hear exactly what was being said, although it seemed that the police officers were ignoring him. The police officer never looked at the ticket or took it from § 87(2)(b). When § 87(2)(b) initially asked about the summons, he had a normal, non-aggressive demeanor. However, after the officers ignored him and began to drive away, § 87(2)(b) became angry and began screaming at the officers. At this point, the officers turned their car around and approached § 87(2)(b) for the second time. § 87(2)(b) who does not speak English, said that she would not have recognized any profanity and could not say if either § 87(2)(b) or the officers used any profanity.

The patrol car did not pull a full U-turn, but parked at an angle on the street. Two officers got out of the car and approached § 87(2)(b). At this point, § 87(2)(b) had crossed the street and was engaged in conversation with his mother. § 87(2)(b) was chastising him for speaking to the officers and § 87(2)(b) said, "It was only a question." He did not appear to notice the officers and was no longer screaming. § 87(2)(b) said that when she saw the officers stopping and approaching them, she thought that they were coming to answer the question about the summons. However, the officers started screaming at § 87(2)(b) and immediately told him to get against the gate of the bodega. Once the officers started screaming at him, § 87(2)(b) became upset again and was "answering back." § 87(2)(b) turned around on his own volition and got against the wall. There was some physical contact between § 87(2)(b) and an officer, identified by the investigation as PO Glynn, but § 87(2)(b) appeared compliant and moving on his own. The only contact was when PO Glynn grabbed the back of § 87(2)(b)'s shirt with one hand and put him against the wall. § 87(2)(b) did not see a necklace break. Initially, he was not handcuffed and only had his hands against the wall. The officers were not trying to handcuff him or search him. § 87(2)(b) attempted to intervene and keep her son from being arrested. She kept trying to tell the officers that § 87(2)(b) was her son. An officer identified as PO Lewis grabbed her by her arm in order to stop her from intervening, not to arrest her at that point. When PO Lewis grabbed her, § 87(2)(b)'s purse dropped to the ground. § 87(2)(b) picked up the purse and handed it to § 87(2)(b).

When § 87(2)(b) initially yelled at the officers, no other civilians on the street were paying attention other than § 87(2)(b) the bodega worker, and § 87(2)(b). However, when the officers came back and the second argument between § 87(2)(b) and the officers started, many onlookers began arriving. At this point, after handing the bag to § 87(2)(b), § 87(2)(b) immediately left the scene to go to work. She did not observe § 87(2)(b) ask for the officers' names or shield numbers. She did not learn that § 87(2)(b) had been arrested until after she had come back from work that night. § 87(2)(b) has known § 87(2)(b) and § 87(2)(b) for nine years as neighbors.

§ 87(2)(b)
§ 87(2)(b), a Hispanic male § 87(2)(b) at § 87(2)(b) at § 87(2)(b) was interviewed on 5/22/06 at § 87(2)(b) (encl. 13a-c). § 87(2)(b) refused to provide an address and said that he did not own a phone. This interview was conducted in Spanish by Inv. Goetz.

On 5/1/06, at approximately 7:30 a.m., § 87(2)(b) was standing outside § 87(2)(b) at § 87(2)(b) when he noticed a patrol car making a U-turn and stopping right in front of two civilians who were walking right in front of the deli. Two officers, identified by the investigation as PO Glynn and PO Lewis, got out of the car, and stopped the two civilians. According to § 87(2)(b) these two civilians were § 87(2)(b) and his mother § 87(2)(b), acquaintances whom he has known for more than ten years from the neighborhood. PO Glynn said something to § 87(2)(b) while pointing his finger towards his face. § 87(2)(b) stated that he was unable to hear what the officer said, but mentioned that he heard § 87(2)(b) tell the officers that he did not do anything wrong and that they had given him a parking summons for no reason. At the same time, PO Glynn grabbed and twisted § 87(2)(b)'s arm and then threw him towards a gate. § 87(2)(b) informed the officers that § 87(2)(b) was her son and asked them to stop the abuse against him. In so doing, § 87(2)(b) "tried to defend her son" by grabbing PO Glynn's arm.

When this happened, PO Lewis "jumped, grabbed her, and pushed her against a box." Then § 87(2)(b) told PO Lewis that he was not supposed to do that to her and demanded an explanation from the officer. The officer ignored her and walked away. Since PO Lewis ignored her, § 87(2)(b) asked PO Glynn for PO Lewis's badge number, informing him that she was going to file a complaint against PO Lewis. But PO Glynn told her that he was not going to give her anything. § 87(2)(b) attempted to obtain PO Lewis's badge number herself. She took a pen and paper, approached PO Lewis, and began to write down his badge number. PO Lewis then, "grabbed her, jumped on top of her, twisted her arm, slammed her against a gate, handcuffed her, and put her inside the patrol car." At this point, there were a lot of people gathered around, screaming and telling the officers that what they were doing was abusive.

During this interview, the investigator asked § 87(2)(b) whether he heard any of the officers or any of the two civilians use profanity during their interaction. He stated that he did not know because he does not understand English very well.

§ 87(2)(b)
§ 87(2)(b) a § 87(2)(b) Hispanic female § 87(2)(b) and residing at § 87(2)(b) Brooklyn NY 11206, was interviewed at § 87(2)(b) on 5/22/06 (encl. 12a-c).

At 7:30 a.m. on 5/1/06, § 87(2)(b) was staying in her grandmother's apartment at § 87(2)(b) when she heard shouting coming from outside near § 87(2)(b). She heard § 87(2)(b) yelling, "What are you doing?" § 87(2)(b) went to the window and saw an individual whom she had known from the projects for many years and identified by this investigation as § 87(2)(b) up against the gate of the grocery store on the corner of § 87(2)(b). § 87(2)(b) had a piece of paper in his hand, was facing an uniformed police officer and seemed to be trying to ask a question. The officer, identified by the investigation as PO William Glynn of the 9th Precinct, grabbed § 87(2)(b) and "threw him against a gate." He turned § 87(2)(b) around and twisted his arm. PO Glynn was saying, "Shut the fuck up." As PO Glynn shoved § 87(2)(b) into the gate, a chain that he was wearing around his neck broke and fell to the ground. He was patting § 87(2)(b) down and going in his pockets. A female individual whom § 87(2)(b) knew to be § 87(2)(b)'s mother and was identified by the investigation as § 87(2)(b) kept asking PO Glynn why they were taking § 87(2)(b). PO Glynn kept saying that she should get away and leave.

§ 87(2)(b) was led to a patrol car and put inside the back. After § 87(2)(b) was in the patrol car, § 87(2)(b) asked a different officer, identified by the investigation as PO Josh Lewis of the 9th Precinct, for his badge number. PO Lewis was talking to another police officer and he ignored her and she asked about three or four additional times. PO Lewis pushed her back with both hands against the store's gate and handcuffed her. At this point, § 87(2)(b) was yelling at PO Lewis that she hadn't done anything illegal. A plainclothes detective walked by and told § 87(2)(b) that if she did not stay still and shut up, he would "Mace her." There were around five civilians gathered around the officers during the incident. § 87(2)(b) did not recall if they were yelling anything at the officers. § 87(2)(b) could not physically describe any of the officers. At this point, § 87(2)(b) was yelling "Harassment!" at the officers from her window. § 87(2)(b)'s husband was downstairs as well and yelling at the officers.

Other than when PO Glynn said, "Shut the fuck up," she did not recall any profanity being used by the officers or § 87(2)(b) or § 87(2)(b). § 87(2)(b) described § 87(2)(b) and § 87(2)(b) as people whom she would say hello to, but she was not close friends with them.

Attempts to Locate Civilian Witnesses

During their 5/9/06 interview, § 87(2)(b) and § 87(2)(b) said that the following people were present: § 87(2)(b), § 87(2)(b), § 87(2)(b), and § 87(2)(b) a.k.a "§ 87(2)(b)." § 87(2)(b) provided a phone number for § 87(2)(b). On 5/18/06, a message was left for § 87(2)(b). On 5/19/06, § 87(2)(b) was contacted again. He was unable to provide any additional contact information for § 87(2)(b) or § 87(2)(b). On 5/19/06, additional contact attempts were made to § 87(2)(b) but the phone number was busy twice and on the following attempt no one picked up the phone. Later that day, a mailing address was obtained for § 87(2)(b) through his mother and a message was left. On 5/22/06, a canvass was conducted of the incident location at 7:45 a.m. on a Monday morning (for photographs see encl. 6a-c). No witnesses were located on the street in the vicinity. A canvass was conducted at § 87(2)(b). The store clerk did not see the incident and said that the store was not open when it occurred. However, § 87(2)(b), § 87(2)(b), § 87(2)(b) saw the incident and gave the above statement. § 87(2)(b) was who eventually provided contact information for § 87(2)(b) who gave the above statement. The undersigned investigator's business card was left for § 87(2)(b) who was not at home. § 87(2)(b), § 87(2)(b) of § 87(2)(b), which is located on the southwest corner of § 87(2)(b) was contacted. She stated that detectives had already attempted to find footage of the incident and could not see anything. § 87(2)(b) said that she had looked several times and the incident had taken place between two cars and was not caught on tape.

On 6/1/06, a letter was sent to § 87(2)(b) and he was contacted by phone. He stated that he was busy and did not want to speak until the following morning around 10:00 a.m. On 6/2/06 at 10:00 a.m., § 87(2)(b) was called but his number was unavailable. Later that day, § 87(2)(b) was given a letter to confirm her appointment and she was interviewed on 6/5/06, providing the above statement. On 6/13/06, a message was left for § 87(2)(b). On 6/14/06, § 87(2)(b) was contacted and stated that he would call back as soon as possible because he could not use his phone. Later on 6/14/06, § 87(2)(b) was contacted at his home phone and he stated that he would call back that same day. He did not call back and on 6/15/06, a message was left with his mother and a letter was sent to his address. On 6/19/06, a message was left with § 87(2)(b)'s mother and his cellular phone was unavailable.

Police Officer Statements

PO William Glynn

PO William Glynn of the 9th Precinct was interviewed at the CCRB on 6/2/06 (encl. 17a-b). On 5/1/06, PO Glynn worked from 7:05 a.m. until 3:40 p.m. and was assigned to uniformed patrol of sector E of the 9th Precinct. He was assigned RMP 2723 and was working with his partner, PO Josh Lewis. He had the following memo book entries (encl. 14a-c) regarding this incident: "7:49 a.m.: 2 under, corner of § 87(2)(b) § 87(2)(b) § 87(2)(b) § 87(2)(b) disorderly conduct, 7:55 a.m.: 10-84 (arrived at scene) at the 9th Precinct. 2:42 p.m.: Transported one male and one female to arrest processing." An Omniform Arrest Report for § 87(2)(b) § 87(2)(b) (encl. 15a-c) states, "At time and place of occurrence perpetrator did create unreasonable noise by screaming and yelling obscenities at arresting officer, also refused to comply with lawful order to disperse. Perpetrator did cause a dangerous condition to passerbys. Perpetrator was without any form of ID." § 87(2)(b)'s arrest report (encl. 15d-e) states,

§ 87(2)(a) 160.50

Property vouchers for § 87(2)(b) (encl. 16a-c) indicate that § 87(2)(b) had six yellow metal rings, three gray metal rings, two yellow metal earrings, one yellow metal locket, three yellow metal pendants, six clear stones, two yellow watches, four yellow bracelets, one yellow pin, and twelve numismatic coins that were vouchered as investigatory evidence in a jewelry bag. An I-pod Nano was also vouchered "in order to determine true ownership." A Samsung T-mobile cellular phone with battery and a black "Euro" bag containing papers was also vouchered for safekeeping. PO Glynn stands 6'1" tall and weighs 225 pounds.

At 7:45 a.m. on 5/1/06, PO Lewis and PO Glynn had just begun their tour when they approached the corner of § 87(2)(b). PO Lewis was the operator of the RMP and PO Glynn was in

the passenger's seat. They saw an individual, identified as § 87(2)(b) who appeared to be irate and was waving a summons on the southwest corner of the intersection. PO Glynn rolled down the window and § 87(2)(b) was screaming and cursing as he approached the vehicle's passenger side. Although PO Glynn could not remember the exact phrasing, he was yelling about the "fucking summons." PO Glynn did not recall § 87(2)(b) whistling or making a comment about him whistling. § 87(2)(b) was saying something about a summons. PO Glynn said, "I didn't write that summons. I don't know about that particular summons. Have a nice day." PO Glynn did not take the summons, look at the summons, or see what it was for. The patrol car did not "peel out" when it drove away.

As they pulled away, § 87(2)(b) began to scream and curse and became even more irate. § 87(2)(b) was "causing a scene" so they stopped the car and came back to talk to § 87(2)(b). PO Glynn saw that § 87(2)(b) was still yelling but could not hear what he was saying. Other people outside appeared to notice § 87(2)(b) cursing and they looked alarmed. Asked why he did not continue on patrol, PO Glynn said that he had to "deal with the situation." Nothing specific that § 87(2)(b) said made him turn around and he did not recall being called a prick. PO Glynn approached § 87(2)(b) and said that he should "calm down" and "stop cursing." § 87(2)(b) stepped towards PO Glynn, coming within a foot of him, and said "Fuck this," "Fuck that," and "I don't have to fucking listen to you." At that point, PO Glynn attempted to put § 87(2)(b) under arrest for disorderly conduct. He brought § 87(2)(b) to the wall, frisked him, and placed handcuffs on him. § 87(2)(b) was physically compliant in that he walked over to the wall with him and was not fighting or trying to pull away. However, § 87(2)(b) was squirming, yelling, and trying to turn around. PO Glynn did not push § 87(2)(b) against the wall and he did not remember seeing a chain or seeing a chain break. PO Glynn held him with one hand against the wall but he did not push him into the wall.

A woman, identified as § 87(2)(b) was screaming and yelling and when § 87(2)(b) was brought to the wall, § 87(2)(b) jumped on PO Glynn's back and then tried to step between PO Glynn and § 87(2)(b). PO Lewis grabbed § 87(2)(b) and removed her away from PO Glynn. § 87(2)(b) continued yelling and screaming and was placed under arrest. PO Glynn could not say exactly when § 87(2)(b) was arrested although it was "within several minutes" of § 87(2)(b) being placed against the wall. She was not immediately arrested and was "given several opportunities to leave." § 87(2)(b) did not ask for his shield number and he did not recall her asking PO Lewis for his shield number. When PO Lewis arrested § 87(2)(b) he brought her over to the wall and she was trying to pull away. PO Lewis used the "minimal" force necessary to hold her arms. Although § 87(2)(b) had a pocket book, he did not recall a checkbook and a pen in her hands. When § 87(2)(b) was placed in a patrol car, he attempted to kick out the windows. PO Glynn did not assist in helping to stop § 87(2)(b) from kicking out the windows. However, no force was used and some officers told him to "knock it off."

Once at the 9th Precinct, § 87(2)(b) was brought in front of the desk sergeant. Throughout the time that he was in front of the desk, § 87(2)(b) was yelling and screaming. PO Glynn did not recall § 87(2)(b) implying that he was a "faggot" or a "homosexual." PO Glynn did not grab § 87(2)(b)'s testicles and there was no argument about whether he grabbed his testicles. Before § 87(2)(b) was in the holding cell, PO Glynn was told by PSA 4 street narcotics enforcement unit (SNEU) officers that § 87(2)(b) was a "known... if not drug dealer, at least someone who is known to be dealing with drugs in the neighborhood and to be sure to carefully search as to find any narcotics or whatever else he might have on him." PO Glynn could not recall the officer's name, although he said that it was a white male officer with a goatee. PO Glynn did not attempt to verify the information. The officer cited concrete examples of when he knew § 87(2)(b) dealt with drugs. However, PO Glynn could not recall any during his CCRB interview. Nothing else indicated to PO Glynn that § 87(2)(b) might have been carrying narcotics. Once § 87(2)(b) was placed in the holding cell, PO Glynn asked § 87(2)(b) to hand him his pants. He took the pants and searched them more thoroughly, looking at the seams and cuffs. A sweatshirt or top layer of clothing was also searched. PO Lewis assisted in the search and no other officers were present. § 87(2)(b) was compliant with the search and no contraband was recovered. PO Glynn did not consider the search to be a strip-search and consequently did not get the search authorized by a sergeant. PO Glynn said that he did not know the technical definition of a strip-search but said that he would have considered the search a strip-search if the prisoner was asked to disrobe or "strip," which in this case he was not. No officers used any profanity during the incident. PO Glynn did not recall repeating the profanity that § 87(2)(b) yelled at him.

PO Josh Lewis

PO Josh Lewis of the 9th Precinct was interviewed at the CCRB on 5/31/06 (encl. 19a-c). On 5/1/06, PO Lewis worked from 7:05 a.m. until 3:40 p.m. and was assigned to uniformed patrol of sector E of the 9th Precinct. He was assigned RMP 2723 and was working with his partner, PO William Glynn. He had the following memo book entries (encl. 18a-c) regarding this incident: "7:49 a.m.: 2 under, corner of § 87(2)(b), § 87(2)(b), § 87(2)(b), § 87(2)(b), § 87(2)(b) disorderly conduct, 7:53 a.m.: Transport 2 to the 9th Precinct. 7:55 a.m.: 10-84 (arrived at scene) at the 9th Precinct. 2:42 p.m.: Finished arrest processing, transported one male and one female to arrest processing." PO Lewis stands 5'11" tall and weighs 205 pounds.

At 7:45 a.m. on 5/1/06, PO Lewis and PO Glynn had just begun their tour and were headed to get breakfast when they approached the corner of § 87(2)(b). PO Lewis was the operator of the RMP and PO Glynn was in the passenger's seat. They heard an individual, identified as § 87(2)(b) whistling and yelling at the police car, "Hey officers, hey, officers." PO Glynn rolled down the window and § 87(2)(b) was screaming and cursing as he approached the vehicle's passenger side. He was carrying an orange-colored summons that PO Lewis recognized as a parking ticket. § 87(2)(b) immediately asked, "What's the fucking deal with this ticket?" PO Glynn took the ticket, examined it, and said, "Sorry, we didn't write this ticket. You need to go to the precinct. Have a nice day." PO Glynn handed the summons back to § 87(2)(b) and PO Lewis began to pull away. He did not "peel out" and noted that, "you couldn't peel out with those cars if you wanted to." PO Lewis never found out what the summons was for. As they pulled away, § 87(2)(b) began to scream obscenities directed at PO Lewis and PO Glynn, calling them various profanities and names including, "pricks" and "cocksuckers." About four to five people initially noticed § 87(2)(b) screaming and became alarmed. PO Glynn did not make any comment about whistling.

PO Lewis explained, "At which time, people that are on their way to work are starting to look at this guy. He's causing public alarm. We had no choice but to take police action. I do a U-turn. We turn around. We stop; my partner approaches him, asks him for identification. At which time, he takes a step forward into my partner's face, literally an inch from his face. He starts screaming, 'Fuck you, you can't get my ID. Go fuck yourself,' all this kind of stuff. My partner at this time grabs his arm, turns him around to cuff him because at this point we're fearing for our safety. We don't know what this guy is going to do, he's acting like a total EDP on us. He goes to start to cuff the guy and this woman comes out of nowhere that we had no prior interaction with and jumps on my partner from the side and starts trying to pull my partner away from him." The woman was later identified as § 87(2)(b), § 87(2)(b)'s mother. At no point on the scene was any profanity used, although once at the precinct the officers may have repeated the profanity used to the desk sergeant.

The bodega on the corner was open at this time. None of the onlookers were saying anything and they appeared alarmed because they stopped talking and were looking at § 87(2)(b). The initial exchange took about ten seconds and was described by PO Lewis as "trivial...He's just escalating the situation...ridiculous." Asked why they would drive away while § 87(2)(b) was yelling and cursing, PO Lewis explained, "Why did we drive away? Because he was upset about the ticket and we told him to go down to the precinct, ask them about it and see what they can do. We like to give people a chance. We don't just lock someone up right away for being agitated, but when it comes to a certain point we can't just leave people there in that state." In this case, the "certain point" was when § 87(2)(b) was screaming obscenities at the patrol car and following it as it drove away. The officers thought it was "reasonable for us to stop and make sure that this guy wasn't going to go completely out of control." Once they stopped the car, PO Glynn approached § 87(2)(b) first and as they approached, § 87(2)(b) was still screaming. PO Lewis was not sure if § 87(2)(b) was pushed against a wall, but explained that usually a wall is used to stabilize an individual who is being handcuffed. The only force used against § 87(2)(b) was to pull his hands behind his back to be handcuffed.

PO Lewis continued, "I grabbed her by the shirt, by the coat rather, and pull her off. She's screaming 'Fuck you' and trying to run past me. At which point, I turn her around and cuff her as well." § 87(2)(b) was "going completely berserk" and was scratching and screaming. § 87(2)(b) was scratching PO Lewis's shirt with her nails but did not injure him. At this point, he had not realized that § 87(2)(b) was her son. § 87(2)(b) had a purse in her hands but did not have a checkbook or pen. She did not ask PO Lewis for his name or shield number at the scene. § 87(2)(b) was arrested and handcuffed before § 87(2)(b) was in the patrol car. Asked if § 87(2)(b) tapped him on the shoulder and asked for his name or shield, PO Lewis said "That absolutely did not happen." PO Lewis did not use his elbow against § 87(2)(b).

§ 87(2)(b) was frisked at the scene for weapons and both he and § 87(2)(b) were transported to the 9th Precinct. § 87(2)(b) was brought in front of the desk sergeant and a thorough search for weapons and contraband was conducted. Although § 87(2)(b) was screaming obscenities at the desk officer, there was no argument over whether PO Glynn “grabbed his balls” or whether PO Glynn was a “faggot.” PO Lewis clarified, “Specifically, I can’t remember what he called anyone but he called everyone everything.” Both were taken into the holding cells and PO Glynn and PO Lewis went to continue processing. In the precinct, an officer from PSA 4, which shares the 9th Precinct’s building, approached PO Glynn and PO Lewis. The officer was a male black uniformed officer, about 5’11” with a moustache. The officer did not mention if he was § 87(2)(b)’s arresting officer from a past offense. This officer told them that, § 87(2)(b) is a known dealer. He’s been arrested before and he secretes drugs into his pants. He cuts holes in them.” PO Lewis explained that he and PO Glynn took his sneakers away, removed the laces, took his “outer layer,” and his belt. They also asked § 87(2)(b) to slide his jeans down and pass them through the cell to be examined. After returning his pants, they asked him to pass them his sweatshirt, and they examined it, removing the string by the hood. During the search, § 87(2)(b) was in the holding cell and the cell door was locked. The PSA 4 officer was not present and § 87(2)(b) was in the cell next to § 87(2)(b). No contraband was found. PO Lewis was not sure if a sergeant authorized the search but he said that he was “sure one did.” PO Lewis did not document the search. At no point was § 87(2)(b)’s tee shirt or boxer shorts removed. PO Lewis did not recall any hypothetical situations posed by § 87(2)(b) about smoking marijuana with PO Glynn’s family.

The SPRINT report (encl. 20) for this incident did not indicate any additional units that may have responded to the scene. § 87(2)(g)

Roll calls for PSA 4 (encl. 25a-k) indicate that no SNEU officers were scheduled to work during the time of the incident.

Police Documents

A SPRINT report (encl. 20) indicates that at 8:07 a.m. on 5/1/06, sector E of the 9th Precinct went over the radio stating that they had two under at the § 87(2)(b) as of 7:44 a.m. At 2:24 p.m., one female and male prisoner were transported to Central Booking.

An arrest photograph for § 87(2)(b) (encl. 21) did not show any apparent injuries. No arrest photograph of § 87(2)(b) was kept on file.

The command log for the 9th Precinct on 5/1/06 (encl. 22a-c) indicates that PO Lewis arrested § 87(2)(b) and § 87(2)(b) for disorderly conduct at 7:55 a.m. Sgt. Chin verified both arrests and the physical condition of both defendants was listed as “apparently normal.” Both were transported to Manhattan Central Booking at 2:10 p.m. No strip-search is documented in the command log.

A roll call for tour 2 of the 9th Precinct on 5/1/06 (encl. 23a-k) indicates that PO Glynn and PO Lewis were assigned to sector E in RMP 2723. An UF-250 log (encl. 24) does not indicate any entries relating to this incident.

Roll calls for tour 1 and tour 2 of PSA 4 (encl. 25a-k) indicate that no SNEU officers were working on tour 1 or tour 2 of 5/1/06.

Disposition of 5/1/06 Arrests

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)] § 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

Civilian and Officer Histories

This is § 87(2)(b) and § 87(2)(b) § 87(2)(b)’s first complaint with the CCRB (encl. 4,5).

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)] § 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

The NYC Comptroller’s office confirmed that no notice of claim has been filed about this incident.

PO Glynn has no substantiated CCRB complaints on his record during his three-year tenure with the NYPD (encl. 2). PO Lewis has no substantiated CCRB complaints on his record during his three-year tenure with the NYPD (encl. 3).

Conclusions and Recommendations

Officer Identification

When § 87(2)(b) filed her complaint on 5/5/06, she provided a shield number for PO Glynn, “30676” and PO Lewis’s name and a partial shield number, “32....” PO Lewis, who has shield number 23260, was identified by the investigation as § 87(2)(b)s and § 87(2)(b)s arresting officer. § 87(2)(b) identified PO Glynn, whose shield number is 31526, by name during his interview, and the roll call confirmed the identification. Neither PO Glynn nor PO Lewis disputes their involvement in the incident.

PO Glynn and PO Lewis both stated to the CCRB that an officer from PSA 4 provided them with information regarding a prior arrest of § 87(2)(b). While PO Glynn described a white male officer with a goatee assigned to a plainclothes SNEU unit, PO Lewis testified that a black male officer with a mustache in uniform provided the information. Neither recalled the name of the officer. Roll calls for tour 1 and tour 2 of PSA 4 indicate that no SNEU teams were scheduled to work at the time of the incident.

§ 87(2)(g)
§ 87(2)(b) also alleged that PO Lewis used excessive force when he elbowed and shoved § 87(2)(b) and § 87(2)(g) later refused to provide his name and shield number to her. § 87(2)(g)

Undisputed Facts

At approximately 7:40 a.m. on 5/1/06, § 87(2)(b) flagged down a marked patrol car occupied by PO William Glynn and PO Josh Lewis of the 9th Precinct at the southwest corner of § 87(2)(b) to ask them a question about a summons. They stopped only momentarily, and as they drove away, § 87(2)(b) indicated in some manner that he was upset by their behavior. § 87(2)(b) proceeded across the § 87(2)(b) to the northwest corner where his mother, § 87(2)(b) and their neighbor, § 87(2)(b) were standing. The patrol car, which had made a left turn northbound onto § 87(2)(b) pulled to the side of the road and PO Lewis and PO Glynn proceeded back towards § 87(2)(b). The officers briefly spoke to § 87(2)(b) and then placed him against the wall and handcuffed him. As they did so, § 87(2)(b) physically intervened and tried to separate PO Glynn and § 87(2)(b). PO Lewis physically separated § 87(2)(b) from PO Glynn and § 87(2)(b). A crowd of more than ten people began to gather at the scene and residents of the public housing development across the street began to shout out of their windows. § 87(2)(b) was handcuffed by PO Lewis and placed in the back of the patrol car with § 87(2)(b). They were transported to the 9th Precinct, where both defendants were processed. While § 87(2)(b) was in the holding cell area, he was told to remove his sweatshirt, pants, socks and shoes, which were subsequently searched and returned to him.

Assessment of Evidence

§ 87(2)(b), § 87(2)(g)
§ 87(2)(b) told the CCRB that he whistled at the officers to get them to stop and when the patrol car did stop, PO Glynn asked him if he had whistled at them and then drove off without ever addressing the summons. § 87(2)(b), § 87(2)(g)

§ 87(2)(b) “I might have cursed them out, but if it was a curse, it wasn’t going to be no prick. It would have been, ‘Asshole, you son of a bitch, fucking cops. I was angry when they peeled off... When he disregarded what I said and left like I was nobody. That’s when I got angry. I was like, ‘Shit, damn, what the hell? They’re supposed to do their duty’...Now that I remember, what I did do, when he peeled off, I

kind of waved my middle finger at him. I waved my middle finger at him.” § 87(2)(b), § 87(2)(g)

§ 87(2)(b) called the officers, “eggplants,” but never used any profanity.

PO Glynn described § 87(2)(b) “screaming and cursing” as the officers approached. He stated that he simply told § 87(2)(b) that he did not write the summons before driving away. When the officers drove away, PO Glynn said that § 87(2)(b) shouted even more obscenities at the officers. § 87(2)(g), PO Lewis did not describe § 87(2)(b) initially cursing, and he testified that PO Glynn took the summons, examined it, and instructed § 87(2)(b) to go to the precinct. He did indicate that as they drove away, § 87(2)(b) was shouting various profanities at them.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b) a neighbor of § 87(2)(b) and § 87(2)(b) provided the CCRB with a description of the incident § 87(2)(b), § 87(2)(g)

According to her, § 87(2)(b) got the attention of the officers who drove by, and it seemed that the officers were ignoring him. While he initially had a normal, non-aggressive demeanor, when the officers began to drive away he began to scream at officers and was visibly angry. § 87(2)(b) indicated that she does not speak English and did not testify as to whether § 87(2)(b) or the officers used any profanity during the incident.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b) stated that when the officers came out of the patrol car they said, “What the fuck? You called us fucking pricks?” § 87(2)(b) denied calling them pricks and PO Glynn then put § 87(2)(b) against the wall of the bodega. In his statement to the CCRB, § 87(2)(b) confirmed that the officers asked him what he said, but only recalled them saying, “What did you say” and not any profanity. He stated that PO Glynn asked him to get against the wall and when he replied, “For what?” PO Glynn physically threw him against the wall, causing him to strike his chest. According to § 87(2)(b) the officers approached § 87(2)(b) and started screaming at him. At this point, § 87(2)(b) became upset and “answered back.” She stated that § 87(2)(b) got against the wall on his own volition, although PO Glynn grabbed the back of § 87(2)(b)’s shirt. § 87(2)(b) § 87(2)(b) remembered PO Glynn pointing at § 87(2)(b) and then grabbing him and putting him against the wall.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b) testified that she heard PO Glynn saying, “Shut the fuck up,” push § 87(2)(b) into a gate, at which point a chain broke and fell to the ground.

The officers denied using any profanity and maintained that § 87(2)(b) was using profanity. They both indicated that § 87(2)(b) stepped aggressively within a foot of PO Glynn while shouting at him, at which point PO Glynn turned § 87(2)(b) around, brought him to the wall, and handcuffed him. Other than grabbing him and turning § 87(2)(b) around, both testified that § 87(2)(b) was not pushed against the wall.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b)

stated that when she was asked to back away she did. However, § 87(2)(b) indicated that PO Lewis pushed her away and told her that § 87(2)(b) was being arrested. § 87(2)(b) also stated that PO Lewis

grabbed § 87(2)(b) causing her to drop her purse § 87(2)(b), § 87(2)(g)

The civilian witnesses all testified that § 87(2)(b) attempted to acquire the name and shield number of PO Lewis. § 87(2)(b), § 87(2)(g) According to § 87(2)(b) she wrote down PO Glynn's shield number (incorrectly, as it turns out), and then walked towards PO Lewis. As she did so, he grabbed her, threw her against a fence, and handcuffed her. She denied tapping him on his shoulder and did not indicate that she verbally asked him for his shield number. § 87(2)(g) § 87(2)(b) stated that she approached PO Lewis and tapped him on the shoulder, asking him for his badge number. When PO Lewis continued talking to another officer, § 87(2)(b) kept asking. At this point, PO Lewis hit her with his elbow and handcuffed her, knocking her paper and pen from her hand. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g) He remembered § 87(2)(b) asking PO Glynn for PO Lewis's shield number, and when he did not give it to her, she approached PO Lewis herself. However, before she could write it down, he handcuffed her. § 87(2)(b), § 87(2)(g)

§ 87(2)(b) testified that she heard § 87(2)(b) ask PO Lewis four to five times for his name and shield number. However, § 87(2)(b) also stated that she heard PO Glynn say "Shut the fuck," § 87(2)(g) heard a plainclothes officer tell § 87(2)(b) that he would "Mace her," § 87(2)(g), and indicated that she was four floors up and at least fifty feet away from the incident location.

The officers both denied that § 87(2)(b) asked either for their name or shield number or had a pen and paper out during the time of incident. § 87(2)(b), § 87(2)(g)

§ 87(2)(g)

Allegations Not Pleaded

§ 87(2)(g)

Analysis

§ 87(2)(b) alleged that when PO Glynn approached her and § 87(2)(b) he yelled, “What the fuck? You called us fucking pricks?” § 87(2)(b) who did not witness the initial approach of PO Glynn, told the CCRB that she heard him say, “Shut the fuck up” to § 87(2)(b). However, § 87(2)(b) only recalled hearing, “What did you say? Oh you wanna call me a prick while I’m on duty?” He did not state that he heard the term “fuck” being used or was told to “shut the fuck up.” Neither § 87(2)(b) nor § 87(2)(b) spoke English and both stated they could not testify as to whether either of the parties used profanity. Both officers denied using any profanity on the scene. § 87(2)(b), § 87(2)(g)

§ 87(2)(g)

New York State Penal Law defines disorderly conduct as occurring when, “*with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof...* 2. He makes unreasonable noise; or 3. In a public place, he uses abusive or obscene language, or makes an obscene gesture; or 7. He creates a hazardous or physically offensive condition by any act which serves no legitimate purpose [emphasis added]” (encl. 1b). § 87(2)(g)

Allegation D: PO Josh Lewis used physical force against § 87(2)(b)

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§ 87(2)(b), § 87(2)(g) PO Glynn indicated to the CCRB that when he apprehended § 87(2)(b), § 87(2)(b) walked to the wall on his own, although he had his hand against him while he was against the wall. PO Glynn denied pushing § 87(2)(b). PO Lewis stated he grabbed § 87(2)(b) by the coat pulled her away from PO Glynn. He indicated that he immediately turned her around and handcuffed her. He denied using his elbow at any point. In *PD vs. Teeter* (2001, OATH Index No. 590/01), an Administrative Law Judge ruled, “Once an officer has properly determined to arrest an individual, he is entitled to use a minimal or reasonable amount of force in order to restrain and handcuff the individual. To the extent that an arrestee offers resistance to arrest, the permissible level of force used by the officer may be increased to the extent necessary to overcome the resistance” (encl. 1c-f) § 87(2)(g)

Allegation E: PO Josh Lewis refused to provide his name and shield number to § 87(2)(b)

§ 87(2)(b) alleged that after he told his mother to obtain PO Lewis’s shield number, she proceeded to walk over to PO Lewis, tap him on the shoulder, and ask him several times for his shield number. After ignoring her, PO Lewis then turned around and arrested § 87(2)(b) § 87(2)(b), § 87(2)(g)

Both officers deny ever hearing a request or seeing § 87(2)(b) writing anything down. § 87(2)(b), § 87(2)(g)

Allegation F: PO William Glynn strip-searched § 87(2)(b)

Allegation G: PO Josh Lewis strip-searched § 87(2)(b)

All parties agree that PO Lewis and PO Glynn instructed § 87(2)(b) to remove his sweatshirt and pants while he was in the holding cell area. While § 87(2)(b) alleged that he was standing outside of the cell in the hallway of the cell area, § 87(2)(b) did not see him in the hallway and the officers both concurred that he was in his cell. § 87(2)(b), § 87(2)(g)

Patrol Guide procedure 208-05 states, “A search at a police facility (not a ‘strip’ search) includes the removal of outer garments such as overcoats, jackets, sweaters, vests, hats, wigs, ties, belts, shoes and socks, handbags, and wallets” (encl. 1g-h). The Patrol Guide indicates that if an officer reasonably suspects that weapons, contraband, or evidence may be concealed in the person or in the clothing, than a strip-search will be utilized. A NYPD FINEST message indicates even more clearly what type of search should be considered a strip-search, “Any search in which an individual’s undergarments (bra, underwear, etc...) and/or private areas are exposed or in which an individual’s clothing is removed, lifted, pulled up or pulled down to expose undergarments or private areas is considered a strip search for the purposes of this procedure [emphasis added] (encl. 1aa-bb). § 87(2)(b), § 87(2)(g)

§ 87(2)(g)

The Patrol Guide states that a strip-search should be utilized when an officer “reasonably suspects that weapons, contraband or evidence may be concealed upon the person or in the clothing in such a

manner that they may not be discovered by previous search methods. Other factors that should be considered in determining the necessity for a strip-search include the nature of the crime (serious violent felony), arrest circumstances, subjects reputation (extremely violent person), acts of violence and discoveries from previous searches.” § 87(2)(g)

[REDACTED]

. According to Barry Kamins’s *New York Search and Seizure*, the case *Weber v. Dell* found that an officer cannot conduct a strip-search unless he has reasonable suspicion that a weapon or contraband is concealed based on “the crime charged, the particular characteristics of the arrestee *and/or* the circumstances of the arrest [emphasis added]” (encl. 1i). § 87(2)(b), § 87(2)(g)

[REDACTED]

In *Police Department v. Dowd* (OATH No. 1189/90), the judge considered whether a legally improper search or seizure should be misconduct (encl. 1w-z). He wrote that an officer must know the law governing searches and seizures, “at least to the extent that the law is clear enough to be free from fair dispute about its applicability and meaning. Failure to act in accordance with clear law will generally be presumed to involve fault.” However, he qualified that if the distinctions of the law, “vex lawyers, judges, professors and legislators...it is hardly fair to punish for misconduct a police officer who has similar difficulty in the far faster-moving circumstances of the street.” § 87(2)(g)

[REDACTED]

§ 87(4-b), § 87(2)(g)

[REDACTED]

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: